

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

PROPOSED JURY INSTRUCTIONS
#05-CR-6116 (CJS)

VIOLETTE GAIL ELDRIDGE, ET AL

The defendant Gail Eldridge joins in the objections raised by the co-defendant Knight in his proposed jury charge dated September 24, 2008 and makes the following additional requests for charge:

Request No. 1-As to All charges

Insert at Page 31, Government's Request to Charge, after paragraph 4

"Fraudulent intent is not presumed or assumed; it is personal not imputed. One is chargeable with his own personal intent, not the intent of some other person. Bad faith is an essential element of fraudulent intent. Good faith constitutes a complete defense to one charged with an offense of which fraudulent intent is an essential element. One who acts with honest intention is not chargeable with fraudulent intent. Evidence which establishes only that a person made a mistake of judgment or an error in management, or was careless does not establish fraudulent intent. In order to establish fraudulent intent on the part of a person, it must be established that such person knowingly and intentionally attempted to deceive another. One who knowingly and intentionally deceives another is chargeable with fraudulent intent notwithstanding the manner and form in which the deception was attempted." U.S. v. Ammons, 464 F.2d at 417 (8th Cir. 1971)

Request No. 2-Money Laundering

Revise page 49, Government's Request to Charge, at paragraph "3"

"The term "proceeds" means the profits acquired or retained as a result of the commission of the specified unlawful activity, or the money retained after the expenses of the criminal enterprise are paid. Proceeds can be any kind of property, not just money." U.S. and Govt Virgin Islands v. Yusef, 529 F.3d 172(3rd Cir. 2008).

REQUEST #4

Delete Page 39-Conscious Avoidance

The defendant Gail Eldridge objects to the conscious avoidance charge as being inappropriate under the facts of this case. See U.S. v. Mankani, 738 F.2d 538 (2nd Cir. 1989).

REQUEST #5-RELIANCE ON COUNSEL, CPA

Insert on Page 31 concerning Good Faith defense after Request #1.

The defendant Gail Eldridge requests that a reliance on counsel and CPA instruction be given in this case.

“The defendant Eldridge in support of her good faith defense alleges that she relied on the advice and counsel of her attorney and CPA, Katherine Crase. You may consider a defendant’s contacts with her attorney or CPA in determining whether the defendant has acted in good faith. Again, it is the burden of the Government to disprove a good faith defense beyond a reasonable doubt”.

The defendant Gail Eldridge reserves the right to supplement or amend her requests for jury charges prior to the conclusion of the trial.

Dated: September 27, 2008

Respectfully Submitted,

LAW OFFICE OF
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